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FILED

AUG 29 2017

SUSAN Y. SOONG  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA

19 SAN FRANCISCO DIVISION

20 UNITED STATES OF AMERICA,

) CASE NO. 3:17-CR-103 VC

21 Plaintiff,

) STIPULATION AND

22 v.

) [PROPOSED] PROTECTIVE ORDER

23 KARIM BARATOV,

)

24 Defendant.

)

)

)

25 Pursuant to Federal Rule of Criminal Procedure 16(d), the United States and the defendant,

26 through their respective undersigned counsel, hereby stipulate and agree that the Court should enter this

27 proposed Protective Order requiring that the following restrictions shall apply to the discovery that the

28 United States produces and designates as "Protected Material":

29 1. The Indictment charges that Defendant Baratov obtained unauthorized access to (i.e.,

30 hacked into) more than 80 email accounts at the direction of and in exchange for commissions from two

31 co-conspirators, who were officers of the Russian Federal Security Service (the "FSB"). Based on that

32 conduct, the Indictment charges Defendant Baratov with conspiring to commit computer fraud and

1 abuse (Count 1), conspiring to commit access device fraud (Count 38), conspiring to commit wire fraud  
2 (Count 39), and aggravated identity theft (Counts 40-47). The defendant's co-conspirators are also  
3 charged with economic espionage, theft of trade secrets, and counterfeit access device fraud.

4       2. The discovery in this case will contain personal identifying and private information of  
5 third-parties, such as the victims of the criminal conduct, information relating to the security and trade  
6 secrets of internet service providers, and other sensitive information, such as the individuals of interest  
7 to and targeted by two FSB officers. Based on the sensitive nature of such information, the United  
8 States may designate certain materials as Protected Material (e.g., Bates-stamped “PROTECTED” or  
9 “PROTECTED MATERIAL”) and in lieu of making such Protected Material only available for  
10 inspection, produce the Protected Material to defense counsel under the terms of this Stipulation and  
11 Protective Order.

12       3. The following individuals (the "Defense Team") may access and examine the Protected  
13 Material under the conditions set forth herein for the sole purpose of preparing the defense and for no

14 other purpose: a. counsel for the defendant;

15 b. persons employed by defense counsel who are assisting with the preparation of the defense;

16 c. any expert retained on behalf of the defendant to assist in the defense of this matter;

17 d. any investigator retained on behalf of the defendant to assist in the defense of this matter; and

18 e. the defendant.

21 Counsel for the defendant shall advise the individuals on the Defense Team of the requirements and the  
22 restrictions in this Stipulation and Protective Order, as well as the Court's entry of the Protective Order.

23       4. The Defense Team (a) shall maintain the Protected Material in a secure location (e.g.,  
24 locked drawer, cabinet, or safe) or secure electronic device (e.g., password-protected computer, memory  
25 stick), (b) shall maintain a copy of this Stipulation and Protective Order with the Protected Material at  
26 all times, and (c) shall not share or give copies to other persons.

27       5.      The Defense Team may supervise other persons in examining the Protected Material only  
28 if all of the following conditions are met: (a) the Defense Team maintains custody of the Protected

1 Material at all times; (b) the Defense Team is present during the review; and (c) the review is for the  
2 sole purpose of preparing the defense and for no other purpose. The Defense Team shall not allow other  
3 persons to take or maintain in their possession any Protected Material or copies thereof.

4       6. The United States will produce one copy of the Protected Material to the Defense Team.  
5 The Defense Team may make copies of the Protected Material, but must maintain such copies in  
6 accordance with Paragraph 4 above. The Defense Team shall not publicly offer, file, or lodge any  
7 Protected Material unless (a) the United States provides written concurrence, (b) pursuant to further  
8 Court order, or (c) it is done under seal.

9       7. Any willful violation of this Stipulation and Protective Order shall constitute a criminal  
10 contempt of Court for which sanctions are provided by law.

11       8. This Stipulation and Protective Order shall remain in effect until the Defense Team  
12 returns the Protected Material (and any copies) to the United States. The Defense Team shall return the  
13 Protected Material (and any copies) to the United States within 30 days of the entry of judgment on all  
14 charges, unless a direct appeal is filed, in which case the Defense Team shall complete the return to the  
15 United States within 30 days of the date when the direct appeal is finally determined.

16       9. The parties shall meet and confer regarding any amendments to or any disputes arising  
17 under this Stipulation and Protective Order. The parties in this case have negotiated this Stipulation and  
18 Protective Order, which does not constitute a concession or waiver by either party regarding discovery  
19 procedures generally in this case or in any other or future case.

20 IT IS SO STIPULATED.

21 DATED: August 21, 2017

  
ANDREW MANCILLA  
ROBERT M. FANTONE  
Counsel for Defendant

BRIAN J. STRETCH  
United States Attorney

26 DATED: August 29, 2017

  
JEFFREY SHIH  
JOHN H. HEMANN  
Assistant United States Attorneys

IT IS SO ORDERED that disclosure of the above-described materials shall be restricted pursuant  
to the stipulation of the parties.

**PROVISIONAL PROTECTIVE ORDER**

Dated: August 29, 2017

HON. VINCE CHHABRIA  
United States District Judge

